IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

CRP.No. 744 of 2006()

AGAINST THE ORDER DATED 01/12/2004 IN (ELE). IN OP.62/2002 of ADDL. DISTRICT COURT, THODUPUZHA

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REVN. PETITIONER: RESPONDENT

KERALA STATE ELECTRICITY BOARD,
REP. BY ITS SECRETARY, VYDYUTHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB

RESPONDENTS: PETITIONER

SRI. JOSE TOM, S/O. THOMAS,
THEKKEL (H), KANJHAAR P.O.,
THODUPUZHA, IDUKKI.

BY ADV. SRI.M.V.SABU

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 11/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 744 OF 2006

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Dated this the 11th day of December, 2007.

O R D E R

This revision petition is preferred against the award of the Addl. District Judge, Thodupuzha in O.P.(Ele.)62/02. By the said award the Court below has awarded an additional compensation of Rs.54,357/- with 9% interest from 31.5.99 till realisation. He was also allowed to recover from the respondent interest at the rate of 9% per annum on Rs.62,354/- from 31.5.99 till 13.3.02.

2. The case had arisen on account of the drawing of Karimkunnam-Moolamattam 66 KV line the Board has cut and removed certain improvements which stood in the property of the petitioner. The improvements that were cut were, (1) coffee, (2) arecanut and (3) cocoa. Evidence was let in in this case regarding the value of articles. So far as coffee is concerned Ext.A3 was produced whereby it suggested a value of Rs.58 per kilogram. The Court below considered that it is

not proved that the coffee produced by the petitioner is the quality of robusta coffee and therefore smash down the rate to Rs.30 and calculated the compensation.

3. So far as the arecanut is concerned the Court took into consideration the notification and fixed it at 50 paise per nut. So far as the the cocoa plants are concerned the relevant price during 1989-90 was fixed at Rs.26.30 by the Government. There also the Court found that it is not known whether it is dried cocoa or raw cocoa beans. So it took an amount of Rs.20 per kg. and calculated the compensation. So far as other expenses are concerned the Court fixed 35% deduction for arecanut, 30% deduction for coffee and 25% for other improvements. The Court also applied the principles laid down in ***Kumba Amma v. K.S.E.B. (2000(1) KLT 542)***. The learned counsel for the petitioner had drawn my attention to the decision of the Apex Court reported in ***K.S.E.B. v. Livisha (2007 (3) KLT page 1***) where the Apex

Court has found that each case has to be decided on the facts and circumstances of that case and various factors may have to be taken into consideration while arriving at the compensation. It also held that even in the case of fruit bearing trees those broad principles have to be followed.

4. I have perused the award of the Court below. Though it is true that the Court below has fixed the annuity at 5% the factor to be worked out is whether such an estimate is incorrect or not. Here, the improvements removed are coffee plants, arecanut and cocoa which were of young age and should have produced yields for considerable number of years. So the Court has fixed the compensation only on account of the longevity of the life of the plants, the area where it is cultivated and how the removal has affected the person and arrived at a decision. Therefore, even independently this is a case where it appears the compensation awarded is only reasonable and adequate.

But, I find that the Court below has also awarded an interest of 9% which under the present circumstances may have to be reduced. Therefore, I dispose of the C.R.P. and hold that the amount awarded is proper and only the interest has to be reduced from 9% to 6%. With this modification, this C.R.P. is disposed of.

M.N. KRISHNAN, JUDGE.

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